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In our review of the genus *Macropodus*, we needed to clarify the nomenclature of the included species. We followed the Code. The Commission has to decide if it sticks to the rules of the Code or accepts the view of the petitioners who try to hide that earlier authors (Vierke, 1986; Paepke, 1994) ignored the following articles and incorrectly applied the nomen oblitum regulations.

Macropodus spechti Schreitmüller, 1936 was described before *M. concolor* Schreitmüller, 1936 or *M. concolor* Ahl, 1937 and is therefore the oldest available name applied to this fish species. All names are based on the same material. Schreitmüller (1936b) himself suggested giving priority to *M. concolor*, which is totally irrelevant to the Code.

Article 23.9 cannot be applied because *Macropodus spechti* was established in 1936 and was therefore used as the valid name after 1899.

The authors stated that *Macropodus spechti* was a forgotten name. The nomen oblitum regulation was only valid between 6 Nov 1961 and 1 Jan 1973 (Article 23.12). The first author who stated that *M. spechti* is a nomen oblitum was Vierke (1986), followed by Paepke (1994). Both ignored the Code in declaring that *M. spechti* is a nomen oblitum. These works are well known to the small German aquarist community interested in this species (to which the petitioners belong) and it is hard to understand why a name should be forgotten if printed in books available for 16 and eight years respectively.

We note that in a very short time span the name *Macropodus spechti* became known and accepted in this small circle and is now taking over. A Google search on 13 March 2004 for *M. spechti* yielded 84 occurrences for the 'new unknown name', against only 467 for the 'old well established name'. This is clear evidence that the change of name is not creating a problem and was widely known and accepted within less than two years.

Comments on the proposed conservation of usage of the specific name *Palaeortyx phasianoides* Milne-Edwards, 1869 (Aves, Galliformes) by the designation of a neotype

(Case 3266: see BZN 60: 211–214; 61: 47–48, 117–119)

(1) U. B. Göhlich & C. Mourer-Chauviré

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1. In reply to the comment by Mlíkovský (BZN 61: 117–119), we write in support of our application (BZN 60: 211–214) proposing the designation of the scapula (MNHN Av 2895), one of the two syntypes of *Palaeortyx phasianoides* Milne-Edwards, 1869, as the neotype. Mlíkovský (2000), not following Recommendation 74A of the Code, had chosen the other syntype as the lectotype, a humerus (MNHN Av 2896) which had already been excluded from *P. phasianoides* by Ballmann (1969b,

p. 31) (see para. 3 of the application). Mlíkovský's argument, that the humerus is more diagnostic than the scapula, is not in accord with the fact that the syntype humerus (MNHN Av 2896) lacks its proximal and distal ends. In addition he (Mlíkovský, 2000, p. 93) selected the lectotype in the same publication in which he had identified it as a pathological specimen of the anatid *Mionetta blanchardi* (Milne-Edwards, 1863) thereby putting the well known phasianid species *P. phasianoides* in synonymy with the anatid species *M. blanchardi*. We (BZN 60: 213; in press) also recently found that the syntype humerus (MNHN Av 2896) is not a pathological specimen of *M. blanchardi* but belongs to *Ameripodius alexis* Mourer-Chauviré, 2000, a galliform (family QUERCYMEGAPODIIDAE). We proposed the designation of the syntype scapula (MNHN Av 2895) as the neotype for *P. phasianoides* because it was clearly identified as aphasianid (see Göhlich & Mourer-Chauviré, in press).

2. In contrast to the comment by Mlíkovský, that the scapula cannot be identified within the Galliformes because it is less diagnostic and that 'Göhlich & Mourer-Chauviré did not even try to identify the scapula fragment', we (Göhlich & Mourer-Chauviré, in press) described several morphologic characters on which the syntype scapula (MNHN Av 2895) can clearly be identified as a phasianid and with which *P. phasianoides* can be separated from several other fossil and recent galliforms, such as *Palaeocryptonyx* and *Coturnix*.

3. Direct comparisons by Göhlich & Mourer-Chauviré of the syntype humerus (MNHN Av 2896) with the holotype and paratype material of *A. alexis*, with other humeri from *P. phasianoides* from the type locality and with *M. blanchardi*, resulted in the identification of the syntype humerus as belonging to *A. alexis*. The syntype humerus shaft (MNHN Av 2896) can be identified as *A. alexis* by means of the strong longitudinal crest on its caudal surface of the shaft, and therefore is not an unsupported observation as indicated by Mlíkovský in his comment.

4. Mlíkovský also incorrectly argued that Mourer-Chauviré (2000, p. 481), when describing *A. alexis*, concluded that the syntype humerus (MNHN Av 2896) was not identical with *A. alexis*. This statement runs counter to facts! Mourer-Chauviré (2000) did not even mention the syntype humerus (MNHN Av 2896) of *P. phasianoides*. Mourer-Chauviré (2000, p. 481) stated that the 'four different species of the genus *Palaeortyx* . . . are typical phasianids, whereas the series of bones attributed to *Ameripodius* is quite distinct from the phasianids'. When arguing that *Ameripodius* differs from *P. phasianoides* it was not necessary to give a new definition of *P. phasianoides* because Ballmann (1969b) had already excluded the syntype humerus (MNHN Av 2986) from *P. phasianoides*.

5. Göhlich & Mourer-Chauviré (BZN 60: 211–214) cited several references which support the interpretation that *P. phasianoides* is a universally accepted taxon always used in the sense of a galliform. In his comment Mlíkovský described the publications of Lydekker (1891), Lambrecht (1933), Brodkorb (1967) and Bocheński (1997) as 'simple' catalogues. In fact, Lydekker (1891), Lambrecht (1933) and Brodkorb (1967) are publications in which several new avian taxa are described and especially in the last the systematics and taxonomy of galliformes were critically revised. Therefore, these publications cannot be considered as 'simple' catalogues.

6. Mlíkovský mentioned that Göhlich & Mourer-Chauviré also overlooked the fact that the names *Palaeortyx longipes* Milne-Edwards, 1869 and *Palaeocryptonyx gaillardi* Ennouchi, 1930 have been applied to *P. phasianoides* (Mlíkovský, 2002,

pp. 154–155). We have not overlooked this fact but consider this as another problem which is separate from our application. However, we want to clarify that it was Ballmann (1969a, p. 182) who put *Palaeocryptonyx gaillardi* into synonymy with *Palaeocryptonyx edwardsi* (Depéret, 1887). We agree completely with Ballmann and emphasize the taxonomic and morphologic differences between *Palaeortyx* and *Palaeocryptonyx*, as described in Göhlich & Mourer-Chauviré (in press). In addition, it was again Ballmann (1969b, p. 182) who first indicated that *P. longipes* is synonymous with *P. phasianoides*: ‘Je crois avoir des raisons de penser que *Palaeoperdix longipes* Milne-Edwards est un synonyme de *Palaeortyx phasianoides*’. We agree completely with this point (see Göhlich & Mourer-Chauviré, in press) and therefore regard Ballmann as the first reviser (regarding fixation of species priority).

7. As already described by Göhlich & Mourer-Chauviré (BZN 60: 211–214), the approach of Mlíkovský (2000, 2002) causes considerable disruption and confusion affecting *Palaeortyx phasianoides*, *Mionetta blanchardi* and *Ameripodius alexis*. Because of an incorrect determination, Mlíkovský (2000) placed the accepted and well known fossil phasianid species *Palaeortyx phasianoides* in synonymy with the fossil anatid taxon *Mionetta blanchardi*. The specimen that he referred to *Mionetta blanchardi* is neither *M. blanchardi* nor *P. phasianoides*, but it is *Ameripodius alexis* (see para. 3 above). Mlíkovský (2000) in designating a lectotype for *P. phasianoides* did not explain why he did not recognise the syntype scapula (MNHN Av 2895) as a *P. phasianoides*; he (Mlíkovský, 2000, p. 93) argued that ‘its [syntype scapula] taxonomic identity remains unresolved at present’. The comparisons of Göhlich & Mourer-Chauviré (in press) resulted in morphological and metrical characters which identify the syntype scapula as a typical phasianid belonging to the taxon *P. phasianoides* and distinguishable from other fossil and recent phasianids. Accepting the syntype humerus (MNHN Av 2896) as the lectotype would result in the invalidity of the taxa *Palaeortyx phasianoides* and *Ameripodius alexis*; the latter would become a junior synonym of *P. phasianoides*. Because the chosen lectotype humerus is not a phasianid but belongs in the family QUERCYMEGAPODIIDAE, *P. phasianoides* would have to be excluded from the genus *Palaeortyx*. The rest of the material, formerly known and described from different localities as *P. phasianoides*, would have to be redescribed and given a new name.

Additional reference

Göhlich, U.B. & Mourer-Chauviré, C. (In press). Revision of the phasianids (Aves, Galliformes) from the Lower Miocene of St.-Gérand-le-Puy (France). *Palaeontology*.

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I have read and fully support this application.